SB Civil Writ Petition No.4456/2004
Mohd.Sharif Choudhary v. State of Raj.& Ors.
Date of Order :: 8th December, 2005

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Mahipal Rajpurohit, for the petitioner.
Mr. B.L.Bhati, Dy.Govt.Advocate.
Mr. Girish Joshi, for the Municipal Board, Makrana.

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By this petition for writ a challenge is given by the petitioner to the order dated 10.9.2004 passed by Executive Officer, Municipal Board, Makrana engaging Shri Vijay Singh, Advocate, as legal adviser of Municipal Board, Makrana in place of the petitioner.

Challenge to the order aforesaid is given by the petitioner on the count that the State Government is having no authority to give instructions to Municipal Board to appoint its legal adviser. According to counsel for the petitioner the order impugned dated 10.9.2004 is passed by the Executive Officer in pursuant to an order dated 4.8.2004 passed by the Dy. Secretary to the Government of Rajasthan, Department of Local Self Government.

A reply to the writ petition is filed on behalf of the respondents No.1 to 4. An objection is raised by the respondents to the effect that the petitioner too was appointed as legal adviser of the Municipal Board, Makrana under the orders of the State Government, therefore, he is estopped from giving challenge to the order engaging Shri Vijay

Singh as legal adviser of the Municipal Board under the instructions of Government of Rajasthan.

Heard counsel for the parties.

The petitioner is an advocate by profession. I am of considered opinion that an advocate cannot claim to be remained as legal adviser of any party as a matter of right. In present case the Executive Officer of the Municipal Board, Makrana passed the order dated 10.9.2004 making appointment of Shri Vijay Singh as legal adviser does not violate any right of the petitioner. The issuance of order dated 10.9.2004 by the Executive Officer, Municipal Board, Makrana also creates a presumption that the Municipal Board is also in concurrence with the advise of State Government to engage Shri Vijay Singh as its legal adviser. If the Municipal Board had any objection to it then the Board itself could have challenged the order dated 4.8.2004 or may have protested by any other means.

Be that as it may, no right of the petitioner is effected adversely by the order dated 10.9.2004 and as such I do not find any merit in the writ petition.

The writ petition is accordingly dismissed.

( GOVIND MATHUR ),J.

kkm/ps.